

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

X

UNITED STATES OF AMERICA, : **MEMORANDUM & ORDER**
v. : 19-CR-534 (WFK)
CORDERO PASSLEY, :
Defendant. :
X

WILLIAM F. KUNTZ, II, United States District Judge:

On June 13, 2022, the Court sentenced Cordero Passley (“Defendant”) to 144 months of incarceration after he pled guilty to being a felon in possession of a firearm and violating the conditions of his supervised release. *See* ECF Nos. 107, 108. As part of the sentencing, the Court adopted the U.S. Probation Office’s (“Probation’s”) calculation that Defendant’s prior sentences resulted in seven criminal history points, placing him in criminal history category IV. ECF No. 107 at 11; Presentence Investigation Report (“PSR”) ¶¶ 28-30, ECF No. 68. On December 27, 2023, the Second Circuit affirmed Defendant’s conviction and sentence. ECF No. 120. On April 1, 2024, Defendant filed a motion requesting the Court direct Probation to revise the PSR to reflect a retroactive amendment to the Sentencing Guidelines that would change the calculation of Defendant’s criminal history points. ECF No. 121. The Government filed its opposition to Defendant’s motion on April 15, 2024. ECF No. 123.

The Court lacks jurisdiction to grant Defendant’s motion. *See Doe v. United States*, 833 F.3d 192, 196 (2d Cir. 2016); *see also United States v. Smalling*, 644 F. App’x 3, 4 (2d Cir. 2016) (“Accordingly, the district court did not have jurisdiction to amend [the defendant’s] PSR pursuant to [Federal Rule of Criminal Procedure] 32 following the imposition of his sentence.”); *United States v. Hernandez*, 14-CR-2641, 2021 WL 3861486, at *1 (E.D.N.Y. Aug. 30, 2021)

(Seybert, J.) (same); *United States v. Hennings*, 95-CR-10, 2005 WL 1270248, at *1 (W.D.N.Y. May 26, 2005) (Arcara, C.J.) (same). Therefore, the Court DENIES Defendant's motion for amendment of his PSR.

SO ORDERED.

A handwritten signature consisting of the initials "S/" followed by "WFK" in a bold, stylized font. There is a small checkmark above the "K". A horizontal line extends from the end of the "K" across the page.

HON. WILLIAM F. KUNTZ, II
UNITED STATES DISTRICT JUDGE

Dated: April 16, 2024
Brooklyn, New York